

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

	)	
KGS DIAMOND GROUP S.A.,	)	
	)	
Plaintiff,	)	
	)	Case No. CV-07 8547 (NRB)
v.	)	
	)	ELECTRONICALLY
DK HOLDINGS, LTD.,	)	FILED WITH THE COURT
	)	
Defendant.	)	
	)	
	)	
	)	

## **DK HOLDINGS, LTD.'S UPDATED SETTLEMENT STATUS REPORT**

Defendant DK Holdings, LTD. (“DK Holdings”), by and through its undersigned counsel, hereby submit an Updated Settlement Status Report advising the court on the current status of the parties’ settlement negotiations, as ordered by the Court during an April 1, 2008 telephone conference.

Plaintiff KGS Diamond Group S.A. (“KGS”) filed this lawsuit alleging that DK Holdings has infringed KGS’s patent by selling in the United States certain abrasive grinding pads known as “Dia-link” pads. Following the Initial PreTrial Conference, attorneys for both parties agreed to exchange information in an effort to resolve this dispute without litigation. As part of an agreed upon settlement process, on February 20, 2008, DK Holdings sent KGS a letter providing product and sales information for the past six years. DK Holdings’ U.S. sales of allegedly infringing products are in such small amounts as not to justify continued litigation. DK Holdings is still awaiting a response from KGS.

On March 28, 2008, DK Holdings filed a Settlement Status Report explaining that while counsel for KGS has expressed a continuing interest in settlement communications, counsel had not yet received instructions or information from KGS. (Dkt. 12). On that same day, KGS filed a separate Status Report, which expressed its belief that the parties may be able to resolve this case amicably. (Dkt. 13).

On April 1, 2008, counsel for DK Holdings received a telephone message from the Court and counsel from KGS. In the message, the Court expressed its understanding that the parties were in the process of negotiating a settlement and agreed to grant the parties an additional three weeks to determine whether the case could be resolved without litigation. The parties were instructed to provide the Court with an updated status report on April 22, 2008. In accordance with the Court's request, DK Holdings submits the following report.

Within the past three weeks, DK Holdings has made repeated attempts to communicate with counsel for KGS to discuss KGS's agreement to submit a settlement proposal to DK Holdings. During an April 2 telephone conversation, counsel for KGS informed DK Holdings' counsel that KGS would provide a settlement offer shortly. On April 17, 2008, counsel for the parties engaged in another telephone conversation to discuss when DK Holdings could expect to receive KGS's settlement proposal. KGS's counsel explained that a proposal had been prepared by KGS's United States and foreign counsel, was currently being reviewed by KGS, and that a proposal should be conveyed to DK Holdings the following day. To date, DK Holdings has not received a settlement proposal from KGS.

On April 21, 2008, counsel for DK Holdings' attempted to contact KGS's counsel to further discuss the status of KGS's proposal, but was informed that KGS's attorney of record, Anthony Handal, no longer is employed by the law firm Brown, Rudick, Berlack, Israels, LLP.

As a result, the current status of this litigation is uncertain and DK Holdings has undertaken efforts to determine who, if anyone, will act as counsel for KGS.

Based on the foregoing circumstances, DK Holdings respectfully requests that this Court schedule a further in person or telephonic pretrial conference to ascertain the status of KGS's representation and to determine whether KGS intends to continue to participate in a settlement process.

DATED: April 22, 2008

Respectfully Submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: "s/" Jennifer L. Dereka  
Jennifer L. Dereka (JD-1577)  
101 Park Avenue  
New York, New York 10178-0060  
Tel.: (212) 309-7137  
Fax: (212) 309-6273

Eric Kraeutler  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103  
Tel.: (215) 963-4840

Attorneys for Defendant  
DK Holdings, LTD.